Banking & Finance

German Financing Market Ready to Reset after a Challenging Year

2023 was a particularly challenging year for the German loan market

As has been the case across all European jurisdictions, 2023 was one of the most challenging years for German loan transactions. A series of rate hikes by the ECB, which pushed up base rates to the highest levels observed in more than two decades, have hindered syndicated loan and high yield bond issuance across the continent, with the German market being no exception.

In a challenging market, refinancing has been the dominant driver of what issuance has proceeded. According to Debtwire Par data, refinancing accounted for 42 per cent of all syndicated loan issuance in 2023. Financing for buyouts, by contrast, has been limited. Loan financing for buyouts reached US$2.4 billion, accounting for less than 8 per cent of overall syndicated loan issuance.

Further, the German syndicated loan and high yield bond activity has been blunted not only by higher interest rates, but also the stagnation of Germany's economy. Higher cost bases resulting from rising energy prices, coupled with soft exports and weak GDP growth, have squeezed company EBITDA figures. Add in higher borrowing costs, and securing new financing packages has become close to unaffordable for many companies.

Brighter prospects for 2024

Hopes that interest rates have peaked, as well as the very healthy refinancing pipeline, have already given stakeholders a degree of optimism that German leveraged loan and high yield bond issuance will recover in 2024. This is on the one hand fueled by the fact that many borrowers have delayed their refinancings in the last years in the hope that their financial performance improves and/or that interest rates may decrease again.

Further, dealmakers are optimistic that the M&A market will recover this year. This is due to the fact that financial sponsors are provided with more certainty when pricing deals and modeling appropriate leverage, adjusting valuation expectations of buyers and sellers, which should revive deal activity. Further, there is an incredible amount of uninvested capital on both the private

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equity and sell-side. The amount of uninvested capital and the need to pay out returns to investors will put sponsors under acute pressure to re-engage in the M&A markets. And in addition, many strategic investors postponed add-on acquisitions during the last years in a hope that pricing and overall deal costs would drop.

Credits in favorable, non-cyclical sectors, such as pharmaceuticals, B2B technology and travel (which is still benefitting from a post-lockdown boost), will be particularly well-placed.

Borrowers will also be encouraged by expectations of a rebound in the Schuldschein market (privately placed, unsecured debt instruments governed by German law). According to a Bloomberg survey of Schuldschein arrangers, roughly two-thirds expect issuance to climb by as much as 10 per cent in 2024, with refinancing driving the upturn.

Overall deal terms are a bit more conservative. The main reason is that lenders are more risk averse in light of the fact that more insolvencies and restructurings are anticipated in 2024 as issuers come up against maturity walls.

Practice Area News

New ESG-Reporting Standards. ESG standards were heavily modified by the CSRD that replaced the NFRD. The CSRD applies from January 2024 and requires "large institutions" to disclose information on "sustainability matters" in 2025 for financial years starting on/after January 2024.

In addition, banks that are subject to the ECB supervision are expected to implement risk management procedures to address the ECB guidelines for effectively managing climate-related and environmental risks by mid-2024.

StaRUG in Financing. In 2023 and 2024, there was an increasing number of companies which used the new pre-insolvency restructuring proceeding under the German StaRUG. StaRUG enables debtors to restructure debt and processes on the basis of a restructuring plan with the consent of the majority of its creditors. So far, the main usage was to restructure loans and Schuldscheine with a reasonable number of creditors. We expect more of this in 2024.

German Implementation Law for Distressed Loans. In October 2023 the German Government submitted a draft law to the German Bundestag on the promotion of orderly credit secondary markets and the implementation of the EU directive. The aim of this law is to reduce the stock of non-performing loans and to prevent the accumulation of non-performing loans in the future, as well as to ensure a high level of protection for borrowers.

Private Equity and MVZ. The debate on the regulation of medical care centers (MVZ) in Germany continues. The question is whether investor-backed MVZ operators are acting at the expense of comprehensive care and treatment quality due to their assumed short-term profit maximization strategy. The new legislation announced for 2023 was postponed to 2024. In March 2024, experts discussed MVZ regulation in a non-public hearing. So far, no draft bill has been presented.

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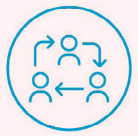

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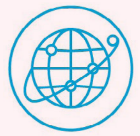

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